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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/937,582	02/20/2002	Colin Arthur Paul	32414.30	2449

22859 7590 06/29/2004

INTELLECTUAL PROPERTY GROUP  
FREDRIKSON & BYRON, P.A.  
200 SOUTH SIXTH STREET  
SUITE 4000  
MINNEAPOLIS, MN 55402

EXAMINER

DONNELLY, JEROME W

ART UNIT PAPER NUMBER

3764

DATE MAILED: 06/29/2004

*8*

Please find below and/or attached an Office communication concerning this application or proceeding.

*restart rejection*



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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/937,582	02/20/2002	Colin Arthur Paull	32414.30	2449

22859 7590 10/07/2003

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EXAMINER

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# Office Action Summary

Application No.

09/937582

Applicant(s)

Paull

Examiner

J Donnelly

Group Art Unit

3764

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

## Status

- ☒ Responsive to communication(s) filed on 3/5/02
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- ☒ Claim(s) 1-25 is/are pending in the application.
- Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- ☒ Claim(s) 1-25 is/are rejected.
- ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- ☐ Claim(s) \_\_\_\_\_ are subject to restriction or election requirement.

## Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- ☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been received.
- ☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_
- ☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

## Attachment(s)

- ☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_
- ☒ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Interview Summary, PTO-413
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Other \_\_\_\_\_

JEROME W. DONNELLY  
PRIMARY EXAMINER

Office Action Summary

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Claims 2, 8, 16, 20 and 22 are rejected under 35 U.S.C. 102(b) as being anticipated by Punzalam.

Puzzle discloses a device having handle which can rotate relative to each other (see Fig. 2), a resistive mechanism at least one handle being removable; and an elongate body.

Punzalam discloses a means of adjusting the resistance (see the abstract) and a disclosure of the device being pneumatic.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-7, 11-14, 1, 18, 21 and 23-25 are rejected under 35 U.S.C. 102(b) as being anticipated by Spector.

In regard to claims 1-6, 11, 13, 14, 17, 18, 21, 23 and 24. Spector discloses a device comprising removable handle members, having a portion slidably received in a body the first and second being rotatable relative to each other, flange members (19), as broadly claimed a resistive mechanism cylinder/section in the form of a hydraulic (spring) having a plunger; and said plunger being of a low friction material as broadly claimed.

In regard to claims 12 and 25 the applicant is reminded that a specific size has not been claimed.

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In regard to claim 7 the hydraulic fluid of Spector is considered as a low friction material. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 9 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Spector in view of Gracovetsky et al.

The examiner notes that it would have been obvious to one of ordinary skill in the art to monitor his exercise routine for the purpose of aiding a user in achieving a desired result.

Gracovetsky discloses the teaching of providing a computer control mechanism which is capable of monitoring the length of an exercise routine and essential biometric parameters while exercising as broadly claimed by the applicant.

Claims 15 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Spector in view of Newman.

Newman teaches that it is known to use sponge (Foam) rubber for the purpose of applying resistance to a plurality of handles.

Given the above teachings of Newman et al, the examiner notes that it is known and would have been obvious to one of ordinary skill in the art to use foam as a resistance means in the device of Spector with or without the usage of the hydraulic fluid means, as a known means of providing resistance to handle means of exercise equipment.

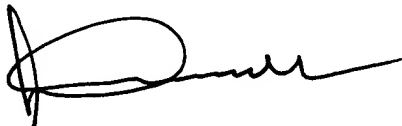
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The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Note the electronic means of Wax et al which is capable of monitoring Biofeed back.

Any inquiry concerning this communication should be directed to Jerome W Donnelly at telephone number 308-2668.

Donnelly/DI

April 21, 2004

A handwritten signature in black ink, appearing to read 'Jerome W. Donnelly', with a stylized, cursive script.

Jerome W. Donnelly  
Primary Examiner